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US BANKRUPTCY VEE-DET

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

CHRISTOPHER D. WYMAN
Debtor(s),

ADV. NO:19-03018

SAMUEL D. SWEET, Trustee,
Plaintiff,

CASE NO. 12-32264
CHAPTER 7

v.

BARBRA DUGGAN,
Defendant.

**JOINT MOTION AND BRIEF FOR RECONSIDERATION OF
ORDER, DE 212, ENTERED MARCH 13, 2019**

Now come Partial Assignee MICHAEL E. TINDALL, in pro per, and Partial Assignor BARBARA DUGGAN, by and through her attorney Elie Bejjani Esq., and move for reconsideration of the Order entered by this Court, DE 212, entered March 13, 2013, and state:

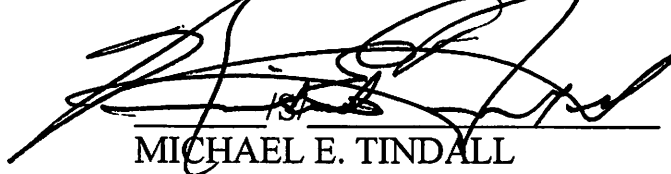
1. On March 13, 2019, this Court entered its Order granting Trustee's Motion to Amend and authorizing the sale of 1011 Jones Rd., Howell Mi and the transfer of Duggan's Judgment Lien to the proceeds of the sale.
2. This Motion is timely, under FRCP 59 and LR 9024-1(a), as a Motion to Alter or Amend the Order, as filed within 14 days of entry of the Order.
3. Upon information and belief, Trustee Sweet intends to sell the subject property to Gentry Sales, Inc., pursuant to this Court's Order dated

March 13, 2019, DE 212, for \$500 cash, and, a land contract for \$64,500.

4. Upon information and belief, Trustee Sweet deems any such land contract to be “proceeds of sale” within the terms of this Court’s Order.
5. *MCL 600.2819* states, in relevant part:
“There is no right to foreclose a judgment lien created under this chapter. **At the time the judgment debtor ... sells under an executory contract... the judgment debtor shall pay the amount due to the judgment creditor ...**”
6. Under Michigan law, property subject to a Judgment Lien cannot be sold on land contract without full payment of the Judgment Lien.
7. Under federal law, a land contract is not “**proceeds of sale.**” *See, In re Terrell*, 892 F.2d 469 (1989); *In re Ravenswood Apts. Ltd.*, 338 BR 307 (6th Cir BAP 2006).
8. The sale proposed by Trustee Sweet violates both Michigan and federal law and would be invalid.

Wherefore, Defendants respectfully request this Court reconsider and alter and amend DE 212 to provide that any sale by Trustee Sweet no matter the terms - comply with *MCL 600.2819* and that no sale or other transfer of 1011 Jones Rd. Howell MI occur or be made unless the full amount of the Judgment Lien, including interest, be paid to Duggan, or, collected at Closing and held separately segregated from the general assets of the Bankrupt Estate, subject to the Judgment Lien, until further order of this Court.

Respectfully Submitted,



MICHAEL E. TINDALL
18530 MACK AVE., STE 430
DETROIT, MI 48236
(248)250-8819

Direct Email: met@comcast.net

Dated: 3/22/19

BEJJANI LAW PLLC

/s/ Elie Bejjani

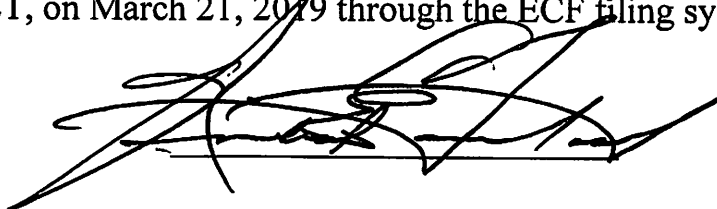


DATED: March 21, 2019

Elie Bejjani (P74626)
Attorney for Secured Creditor
6 Parklane Blvd, Suite 600
Dearborn, MI 48126
(313) 757-0036
elie@bejjanilaw.com

CERTIFICATE OF SERVICE

This MOTION FOR RECONSIDERATION was served on Plaintiff SAMUEL D. SWEET, on March 21, 2019 through the ECF filing system.



IN RE CHRISTOPHER D. WYMAN

CASE NO: 12-32264

Debtor(s)

ADV. NO. 19-03018

EXHIBIT NO: 1

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

CHRISTOPHER D. WYMAN
Debtor(s),

ADV. NO:19-03018

SAMUEL D. SWEET, Trustee,
Plaintiff,

CASE NO. 12-32264
CHAPTER 7

v.

BARBRA DUGGAN,
Defendant.

ORDER

This matter having come before this Court on MOTION FOR
RECONSIDERATION/ALTER-AMEND DE 212 and the Court being fully
advised in the premises:

IT IS HEREBY ORDERED that the MOTION FOR
RECONSIDERATION/ALTER-AMEND ORDER be and it hereby is
GRANTED.

IN RE WYMAN, CASE NO: 12-32264

Debtor(s)

ADVERSARY 19-03018

EXHIBIT NO: 2

NOTICE OF MOTION AND OPPORTUNITY TO OBJECT

UNITED STATES BANKRUPTCY COURT
Eastern District of Michigan

In re:

CHRISTOPHER D. WYMAN

S. SWEET V. DUGGAN

Debtor(s) /

Chapter: 7

Case No.: 12-32264

ADVERSARY NO. 19-03018

Judge: D. S. OPPERMAN

NOTICE OF MOTION

Petitioner has filed papers with the court to: MOTION FOR RECONSIDERATION/ALTER-AMEND ORDER

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the Motion or if you want the court to consider your views on the motion, within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:¹

United States Bankruptcy Court
226 WEST SECOND STREET
FLINT, MI 48502

If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

ELIE BEJJANI, 6 PARKLAND BLVD., STE 600, DEARBORN MI 48126
MICHAEL E. TINDALL 18530 MACK AVE., STE 430, DETROIT MI 48236
SAMUEL D. SWEET, TRUSTEE, PO BOX 757, ORTONVILLE MI 48462

2. **NOTE: HEARING DATE PRE-SET FOR MAY 7, 2019, DE 216**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 3/22/19

Signature: /s/ MICHAEL E. TINDALL
Name: MICHAEL E. TINDALL, in pro per
Address: 18530 MACK AVE., STE 430
DETROIT, MI 48236
(248) 250-8819

¹Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)